

## **TENTATIVE RULINGS for CIVIL LAW and MOTION**

### **November 12, 2009**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6942

#### **TENTATIVE RULING**

**Case:** CMH Manufacturing West, Inc. v. Sacramento SBB Associates, LLC  
Case No. CV CV 08-130  
**Hearing Date:** November 12, 2009 Department Fifteen 9:00 a.m.

Sacramento SBB Associates, LLC's motion to compel Kevin Clayton to appear and to give testimony at a deposition is **GRANTED** as follows. Kevin Clayton shall appear and give testimony at a deposition to be taken by Sacramento SBB Associates, LLC commencing on November 18, 2009, in Knoxville, Tennessee. Counsel for Sacramento SBB Associates, LLC shall notify the plaintiff and Mr. Clayton of the time and place for such deposition, in writing, **by no later than November 13, 2009**. The request for sanctions is **DENIED**.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312, or further notice is required.

#### **TENTATIVE RULING**

**Case:** In re Matter of Cornwell  
Case No. CV P2 09-190  
**Hearing Date:** November 12, 2009 Department Fifteen 9:00 a.m.

The petitioner and the minor are directed to appear or to show good cause why the petitioner and minor should not be required to appear. (Cal. Rules of Court, rule 7.952.) If the petitioner and the minor choose to show good cause, they should do so by filing a declaration before the hearing setting the forth the facts supporting good cause. If the parties fail to appear at the hearing and the court has not excused their personal appearance, the petition will be denied without prejudice. No request for a hearing is required.

### TENTATIVE RULING

**Case:** **Coy v. R & S Architectural Products, Inc.**  
**Case No. CV CV 08-2020**

**Hearing Date:** **November 12, 2009** **Department Fifteen** **9:00 a.m.**

R & S Architectural Products, Inc.'s motion to compel further responses to the following discovery requests to the cross-defendants is **GRANTED**: special interrogatory nos. 1 and 11 (as to the time period following the end of Carrie Wright's employment with R & S Architectural Products, Inc. and/or Pass Door only) to Carrie Wright; form interrogatory no. 17.1 to Carrie Wright (as to request for admission no. 8 only); special interrogatory no. 1 to ASAP Hollow Metal Doors, Inc.; special interrogatory nos. 2 and 3 to William Coy; request for admission no. 165 to William Coy; and request for production of documents nos. 23, 24, 25, 27-34, and 36-38 to William Coy.

Cross-defendants shall serve verified responses to the above discovery requests, without objections, **by no later than November 23, 2009.**

The motion to compel further responses as to all other discovery requests is **DENIED** as the opposition papers state that responsive documents have been produced and the reply brief does not contradict this statement.

The request for monetary sanctions against William Coy, Carrie Wright and ASAP Hollow Metal Doors, Inc. is **GRANTED** in the amount of \$3,415.00 only. (Code Civ. Proc., §§ 2030.290, subd. (c) and 2031.300, subd. (c).)

If no hearing is requested, the tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

### TENTATIVE RULING

**Case:** **Kropp v. California Highway Patrol**  
**Case No. CV PT 08-2987**

**Hearing Date:** **November 12, 2009** **Department Fifteen** **9:00 a.m.**

Plaintiffs' motion to strike pursuant to Code of Civil Procedure section 425.16 is **GRANTED**. (Code Civ. Proc., § 425.16; *Ruiz v. Harbor View Community Assoc.* (2005) 134 Cal.App.4<sup>th</sup> 1456, 1469-70.) The Court finds that the challenged causes of action arise from protected petitioning and plaintiff failed to demonstrate a probability of prevailing on her claims. (*Navellier v. Sletten* (2002) 29 Cal.4<sup>th</sup> 82, 89, 93.) Plaintiff's causes of action are barred by workers' compensation law. Allegations that the employer acted unfairly or outrageously or intentionally to cause emotional distress are not sufficient, by themselves, to permit a civil action outside the workers' compensation system. (*Cole v. Fair Oaks Fire Protection Dist.* (1987) 43 Cal.3d 148, 160; First Amended Complaint; Declaration of Kropp.)

Plaintiff's cause of action for intentional infliction of emotional distress fails because the conduct, as alleged, constituted no more than non-actionable threats and petty oppressions.

(*Cochran v. Cochran* (1998) 65 Cal.App.4<sup>th</sup> 488.) Personnel management actions are not “extreme and outrageous” conduct even if based on improper motive. (*Janken v. GM Hughes Electronics* (1996) 46 Cal.App.4<sup>th</sup> 55, 80; *see also Shoemaker v. Myers* (1990) 52 Cal.3d 1, 25.)

Plaintiff’s causes of action based upon invasion of privacy fail because plaintiff’s evidence shows that the only information requested and/or obtained by Defendant from her personnel file was her salary and any raises she received since 2002. Defendant is entitled to obtain this information as members of California Highway Patrol Academy Recreation Fund, Inc. (Corp. Code, §§ 6310-6338 and 8310-8338.)

If no hearing is requested, the tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

**TENTATIVE RULING**

**Case:**                    **Levy v. Allstate Indemnity Company**  
                              **Case No. CV PT 09-2533**

**Hearing Date:**      **November 12, 2009**                    **Department Fifteen**                    **9:00 a.m.**

The unopposed petition to compel arbitration is **GRANTED**. (Ins. Code, § 11580.2; Code Civ. Proc., § 1281.2.) Arbitration shall be concluded by no later than February 1, 2010.

Petitioner shall serve the respondent with a copy of this ruling by no later than November 16, 2009.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice, except as provided herein, is required.

**TENTATIVE RULING**

**Case:**                    **In re claim of Durbert Lewis**  
                              **Case No. CV PT 09-2586**

**Hearing Date:**      **November 12, 2009**                    **Department Fifteen**                    **9:00 a.m.**

The Claimant and the People are directed to appear to advise the Court of the status of this matter. No request for hearing is required.

**TENTATIVE RULING**

**Case:**                    **Ormiston v. California Youth Soccer Association**  
                              **Case No. CV PO 08-236**

**Hearing Date:**      **November 12, 2009**                    **Department Fifteen**                    **9:00 a.m.**

This matter is **CONTINUED** on the Court’s own motion to Thursday, November 19, 2009, at 9:00 a.m. in Department Fifteen.

**TENTATIVE RULING**

**Case:** **People v. Broderick Boys**  
**Case No. CV CV 04-2085**

**Hearing Date:** **November 12, 2009** **Department Fifteen** **9:00 a.m.**

The Court will continue this matter on its own motion. Counsel are to confer prior to the November 12, 2009, hearing and, at the hearing, give the Court two dates when all counsel are available for the continued hearing. Counsel are directed to appear and to be prepared to discuss the new hearing date. No request for hearing is required.

**TENTATIVE RULING**

**Case:** **In re Arturo Vergara**  
**Case No. CV P2 09-156**

**Hearing Date:** **November 12, 2009** **Department Fifteen** **9:00 a.m.**

The petition to approve the disposition of the proceeds of judgment is **DENIED WITHOUT PREJUDICE**. Petitioner has not provided the name and address of the proposed depository for the settlement funds. (Cal. Rules of Court, rule 7.950(12).)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

**TENTATIVE RULING**

**Case:** **Wirthlin v. Murphy**  
**Case No. CV PM 09-1771**

**Hearing Date:** **November 12, 2009** **Department Fifteen** **9:00 a.m.**

Plaintiff's motion to quash is **DENIED**. The modified subpoenas are limited to records pertaining to the body parts placed at issue by the allegations in the complaint and to a time period proposed by the plaintiff's counsel. The amount that an insurer has paid to the plaintiff's medical care provider(s) may be relevant to the issue of the plaintiff's measure of damages. (*Hanif v. Housing Auth. of Yolo County* (1988) 200 Cal.App.3d 635; *Nishihama v. City and County of San Francisco* (2001) 93 Cal.App.4<sup>th</sup> 298; Code Civ. Proc., § 2017.010.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

**TENTATIVE RULING**

**CASE:** **Yepez v. Sangha**  
**Case No. CV PM 08-1956**

**Hearing Date:** **November 12, 2009** **Department Fifteen** **9:00 a.m.**

Plaintiffs' unopposed motion for leave to file the first amended complaint submitted with the moving papers is **GRANTED**. (Code Civ. Proc., § 473, subd. (a).) Plaintiffs shall file their first amended complaint **by no later than November 13, 2009**.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.